

ORIGINAL

1 CARLSMITH BALL LLP  
 2 Carlsmith Building, Capitol Hill  
 3 P.O. Box 5241  
 4 Saipan, MP 96950-5241  
 5 Tel No. 670.322.3455

FILED  
 Clerk  
 District Court

MAY 16 2006

4 Attorneys for Defendant  
 5 Maeda Pacific Corporation

For The Northern Mariana Islands  
 By \_\_\_\_\_  
 (Deputy Clerk)

## UNITED STATES DISTRICT COURT

## FOR THE

## NORTHERN MARIANA ISLANDS

11 TOSHIHIRO TAKAHASHI,

CIVIL ACTION NO. CV 05-0026

12 Plaintiff,

MOTION IN LIMINE TO EXCLUDE  
 TESTIMONY OF PLAINTIFF'S  
 DESIGNATED MEDICAL EXPERT;  
 EXHIBITS A-B; DECLARATION OF  
 JOHN D. OSBORN

13 vs.

14 MAEDA PACIFIC CORPORATION,

TRIAL DATE: May 30, 2006  
 TIME: 9:00 A.M.  
 JUDGE: Alex R. Munson

15 Defendant.

16  
 17 Comes now the Defendant Maeda Pacific Corporation and moves the Court for an Order  
 18 *In Limine* to exclude the introduction of evidence and testimony of Dr. H. Christine Brown at  
 19 trial. This motion is supported by the Memorandum of Points and Authorities attached hereto,  
 20 the declaration of John D. Osborn, the attached exhibits, the pleadings filed herein and such  
 21 additional evidence as may be produced at argument on the motion.

22  
 23 CARLSMITH BALL LLP

24  
 25 DATED: Saipan, MP, May 16, 2006.

  
 26 JOHN D. OSBORN  
 27 Attorneys for Defendant  
 28 Maeda Pacific Corporation

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. Background:

1. On August 9, 2005, this action was removed from Superior Court to this Court. The Complaint alleges that the Plaintiff suffered personal injury, including financial loss, due to the alleged negligence of the Defendant.

2. Pursuant to the Court's Case Management Order of September 2, 2005, the Court Ordered that all Discovery shall be served by December 31, 2005, and that all discovery motions shall be filed on or before March 2, 2006. The Court further Ordered that Plaintiff provide its expert disclosure and report by March 1, 2006, and that all expert discovery shall be completed by April 12, 2006. The parties informally agreed to the extension of the discovery cut off date.

3. On April 4, 2006, Plaintiff disclosed the identify of his designated expert witness but the required report pursuant to F.R.C.P. 26(a)(2) was not provided as the expert had not yet examined the Plaintiff. A copy of the disclosure letter is provided as Exhibit A.

4. On May 2, 2006, Plaintiff's counsel provided a report and Curriculum Vitae for his designated expert witness, Dr. H. Christine Brown of Island Medical Center. Dr. Brown was not identified in any response to Interrogatories and Request for Production of Documents as a treating physician or expert witness. A copy of Dr. Brown's report and Curriculum Vitae are attached Exhibit B.

## II. Federal Rules of Procedure Require The Exclusion of Testimony and Evidence as Plaintiff Failed to Produce Discovery

The Federal Rules of Civil Procedure are intended “to secure the just, speedy, and inexpensive determination of every action.” Fed. R. Civ. P. 1 (1993). A party to a civil proceeding in federal district court is under a duty to timely correct and/or supplement his initial and pretrial disclosures. Fed. R. Civ. P. 26(e)(1) (2000). “[T]he litigants should not indulge in

1 gamesmanship with respect to the disclosure obligations.” *Marchand v. Mercy Med. Ctr.*, 22  
 2 F.3d 933, 936 n. 3 (9<sup>th</sup> Cir. 1994) (*citing* Fed. R. Civ. P. 25 advisory committee’s note). The  
 3 failure to comply with disclosure requirements triggers automatic sanctions under Rule 37(c)(1):  
 4 A party that without substantial justification fails to disclose information required by Rule 26(a)  
 5 or 26(e)(1) or to amend a prior response to discovery as required by Rule 26(e)(2), is not, unless  
 6 such failure is harmless, be permitted to use as evidence at a trial, at a hearing or on a motion any  
 7 witness or information not so disclosed. Fed. R. Civ. P. 37(c)(1) (2000).

9           The penalty for failing to comply with disclosure requirements is “self-executing” and  
 10 “automatic”. Fed. R. Civ. P. 37(a) advisory committee’s note. FRCP Rule 26(e) does not require  
 11 that a discovery order be violated before sanctions can be imposed. This Court has “inherent  
 12 power to discipline breaches of Fed. R. Civ. P., Rule 26(e), even in the absence of a court order”,  
 13 including the sanction of excluding the evidence. *Campbell Indus. v. M/V Gemini*, 619 F.2d 24,  
 14 27 (9<sup>th</sup> Cir. 1980); 6 MOORE ’S FEDERAL PRACTICE , § 26.132[6] (footnotes omitted). Thus,  
 15 a motion to compel compliance with the discovery rules does not need to be filed before the  
 16 exclusion sanction can be imposed. A party may secure exclusion of evidence produced in  
 17 violation of FRCP Rule 37(c)(1) through a motion in limine. *Paradigm Sales, Inc. v. Weber*  
 18 *Mktg. Systems, Inc.* , 880 F. Supp. 1247, 1255-56 (N.D.Ind. 1995).

21           In determining whether the court should properly exclude undisclosed evidence,  
 22 including both testimonial and documentary evidence, the following five factors should be  
 23 considered: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to  
 24 manage its docket; (3) the risk of prejudice to the party seeking sanctions; (4) the public policy  
 25 favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.  
 26 *Wendt v. Host Int’l, Inc.*, 125 F.3d 806, 814 (9<sup>th</sup> Cir. 1997) (*citing* *Wanderer v. Johnston* , 910  
 27 F.2d 652, 656 (9<sup>th</sup> Cir. 1990)); *see also* *Payne v. Exxon Corp.*, 121 F.3d 503, 507 (9<sup>th</sup> Cir. 1997).

1        The first two of these factors favor the imposition of sanctions in most cases, while the  
2 fourth cuts against a default or dismissal sanction. *Wanderer* , 910 F.2d at 656. Thus, the key  
3 factors are the risk of prejudice and the availability of lesser sanctions. *Id* . A defendant suffers  
4 prejudice if the plaintiff's actions impair the defendant's ability to go to trial or threaten to  
5 interfere with the rightful decision of the case. *Adriana Int'l Corp. v. Thoeren* , 913 F.2d at 1406,  
6 1412 (9<sup>th</sup> Cir. 1990); *see also Payne*, 121 F.3d at 508 (holding that the “last-minute tender of  
7 documents does not cure the prejudice to opponents nor does it restore to other litigants on a  
8 crowded docket the opportunity to use the courts”).  
9

10

11        A. Plaintiff's Designated Expert Testimony and Report Should Be Excluded For Failure  
12 to Timely Disclose and Failure to Establish Qualifications As An Expert.

13        1.        The Expert and Report Should be Excluded For Failure to Produce As  
Directed by the Court.

14        Plaintiff's eve of trial disclosure and incomplete production of his expert witness  
15 testimony demands the exclusion of such testimony. Notwithstanding the Court's Order that  
16 experts be designated and reports provided by March 1, 2006, and that all expert discovery by  
17 April 12, 2006, Plaintiff delayed disclosure of his expert's identity until April 4, 2006.  
18 Moreover, even at that late date, Plaintiff failed to provide the required expert report and further  
19 disclosed that his designated expert had not even examined the Plaintiff. Counsel's letter further  
20 noted that Plaintiff would not be examined until some time after April 10, 2006, two days prior  
21 to the completion of expert discovery.  
22

23        It was not until May 2, 2005, that the report and Curriculum Vitae of Dr. Brown were  
24 finally provided. Plaintiff's eve of trial disclosure has prejudiced Defendant because not only  
25 was the information provided too close to the trial date to provide for effective discovery, the  
26 report itself appears to be based on unknown information.  
27

1       The expert report suggests that other medical information exists which has not been  
2 provided to the defense. On the first page of her report, Dr. Brown notes that she reviewed  
3 records of treatments provided by the "Murao Clinic." The "records of treatment" are not  
4 identified.

5       Plaintiff having failed to produce Court ordered medical records; the defense is left to  
6 guess as to what "records of treatment" Dr. Brown used to reach her opinion. Additionally, Dr.  
7 Brown makes reference to "interview and examination" of Plaintiff on April 19, 2006, but no  
8 office notes of the interview or exam are provided. Thus, even if time had permitted to depose  
9 Dr. Brown, it would have been impossible to effectively do so due to Plaintiff's failure to  
10 produce the records ordered by the Court. As the production of this information was entirely  
11 within Plaintiff's control, he should not now benefit by allowing his witness to provide expert  
12 testimony without timely disclosing the report or the information utilized in the preparation of  
13 the report. Dr. Brown also opines that a referral to a neurologist is appropriate and that would  
14 involve additional expense to the Plaintiff, but provides no opinion as to what that additional  
15 expense would be.

16       Where a party has failed to provide expert witness discovery, exclusion is the only  
17 applicable remedy. *See, Miksis v. Howard*, 106 F.3d 754, 760 (7th Cir. 1997) (The court did not  
18 abuse its discretion in striking defendant's experts for failure to make timely disclosures.);  
19 *Barrett v. Atlantic Richfield Co.* , 95 F.3d 375, 380-381 (5th Cir. 1996) (The court did not abuse  
20 its discretion in striking the testimony of plaintiff's expert witnesses for failure to comply with  
21 discovery order requiring that witnesses be identified and submit to depositions by a certain  
22 date.); *Hull v. Eaton Corp.* , 825 F.2d 448, 452, 263 U.S.App. D.C.311, 315 (D.C. Cir. 1987) (A  
23 court may sanction a party's continued and unexcused refusal to name an expert witness by  
24 precluding testimony from such witness without first determining how badly the party needs the  
25  
26  
27  
28

1 witness.)

2       2.       The Proposed Expert Testimony and Report Should be Excluded as  
3       Inconsistent

4       The introduction of expert testimony is provided for in Federal Rule of Evidence 702.  
5       Generally, for its witness to provide an expert opinion, Plaintiff must lay sufficient foundation  
6       for the trial court to determine that the witness is "qualified as an expert by knowledge, skill,  
7       experience, skill, experience, training or education" before being such opinion testimony is  
8       permitted. Fed.R.Evid. 702. The Court in *Daubert v. Merrill Dow Pharmaceuticals*, 509 U.S.  
9       579, 113S.Ct. 2786, 2798(1993) requiring an expert to be qualified said:

10       11       "This gate keeping function requires the trial court to determine,  
11       12       given the proffered expert's background, whether the scientific,  
12       13       technical or specialized knowledge he offers will assist the trier  
13       14       better to understand a fact in issue." *Gaydar v. Sociedad Instituto*  
14       15       *Gineco*, 345 F.3d 15, citing *US v. Alzanki*, 54 F.3d 994, 1005 (1st  
15       16       Cir. 1993).

16       17       It appears that Plaintiff will attempt to use the report as expert opinion evidence  
17       18       concerning the alleged permanent nature of the nerve damage. In this regard, Plaintiff has failed  
18       19       to establish Dr. Brown as an expert in neurology and the report itself casts serious doubts on its  
19       20       findings as Dr. Brown defers her opinion to a neurologist to determine the extent of nerve injury  
20       21       and its permanency.

21       22       On page 2, section 3 of the proffered report, Dr. Brown discusses the alleged nerve  
22       23       damage to Plaintiff's index finger states:

24       25       26       "....my diagnosis is that this is an injury to the nerve in the client's  
25       26       finger and its most likely permanent. As a general practitioner, I  
26       27       would defer this conclusion to a neurologist to determine the extent  
27       28       of the nerve injury and would recommend the patient visit a  
28       29       neurologist."

29       30       Given the self doubting nature of the report, with respect to Dr. Brown's recognition of  
30       31       her own limited ability to diagnosis the injury and need for further opinion, the prejudice of her

1 testimony and report clearly outweighs any probative value.

2 The proffered report and the qualifications of Dr. Brown as a general practitioner offers  
3 no such assistance to the trier of fact and is prejudicial to Defendant as it allows an the  
4 designated expert to offer an opinion which she herself admits she is not qualified to make.

5 To allow Dr. Brown to provide an expert opinion in light of her position that a referral to  
6 neurologist is more appropriate is clearly prejudicial to the defense when there was no  
7 opportunity to conduct responsive discovery as to what that expert may have opined and whether  
8 any permanent damages exists. To paraphrase Dr. Brown, an expert opinion is required and that  
9 has not yet been proffered to the Court.

10  
11  
12 **CONCLUSION**  
13

14 Because of Plaintiff's failure to comply the Court's Order to produce and complete expert  
15 discovery and to provide a foundation for the offering of expert testimony, Defendant  
16 respectfully requests the exclusion of any introduction of expert testimony by Plaintiff.

17 CARLSMITH BALL LLP  
18

19 DATED: Saipan, MP, May 16, 2006.  
20

  
21 JOHN D. OSBORN  
22 Attorneys for Defendant  
23 Maeda Pacific Corporation  
24  
25  
26  
27  
28

# **TORRES BROTHERS, LLC.**

ATTORNEYS AT LAW

BANK OF GUAM BUILDING, THIRD FLOOR  
P.O. Box 501856  
SAIPAN, MP 96950  
TEL.: (670) 233-5504/6 FAX: (670) 233-5510

Victorino DLG. Torres, Esq.  
Joaquin DLG. Torres, Esq.  
Vincent DLG. Torres, Esq.

April 4, 2006

John D. Osborne  
CarlSmith Ball LLP  
P. O. Box 5241  
Saipan, MP 96590  
Tel: (67) 322-3455

Re: *Takahashi v. Maeda*: Civil Action No. CV 05-0026

Dear John:

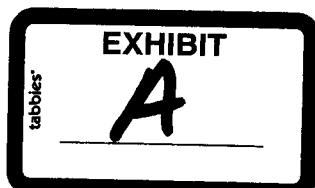
The name of the Doctor that will be testifying at our expert witness is:

H. Christine Brown, MD  
P. O. Box 504669  
Saipan, MP 96950

Dr. Brown works at Island Medical Center. As I informed you over the phone, I cannot comply with Rule 26 (b) (4) (A) (i) at this point because Dr. Brown has not been able to meet with the plaintiff. The plaintiff is expected on the 10<sup>th</sup> of April, 2006 and Dr. Brown will meet with him immediately thereafter. My office will provide you a copy of her report as soon as we get it from Dr. Brown.

Thank you for your time and cooperation in this matter. Please advise if there is anything else that you want or need.

*Si Yu'us Ma'ase,*  
Joaquin DLG. Torres  
Attorney for T. Takahashi



RECEIVED  
CARLSMITH BALL LLP  
ATTORNEYS AT LAW  
DATE: 4/04/06 TIME: 3:46 pm  
BY: \_\_\_\_\_



**MICRONESIAN HEALTH CORPORATION  
Island Medical Center**

Your **NEW** Family Care Center

PO Box 504669 CK, Salinas, MP, 96590 • Phone: 670-235-8880 • Fax: 670-235-8370 • email: imc@pticom.com

April 21, 2006

**Re: Toshihiro Takahashi      DOB: July 8, 1946**

### 1. Name and Qualifications of Expert Witness

H. Christine Brown, M.D.

### Medical Training:

**Residency: University of Cincinnati Family Practice Residency Training Program, 1992-1995.**

Medical School: University of South Florida, College of Medicine, 1992.

## Medical Experience

**Medical Director Island Medical Center, Saipan, MP, 2002 to present.**

## Physician, Elder Health of Volusia, 2001.

## Locum Tenens Physician, Queensland, Australia, 2000.

**Physician, Hendry Regional Medical Center, Clewiston, Florida 1995-1999.**

## 2. Data or other Information Considered by Expert in Forming Opinion.

- A. Interview and examination of Mr. Toshihiro Takahashi on April 19, 2006.
- B. Medical records from Pacific Medical Center from March 18, 2005.
- C. Records of treatment at Murao Clinic March 22, 2005 to April 1, 2006.
- D. Medical records from Saipan Health Center, Mr. John Pangelinan from March 18, 2005.
- E. Evaluation of right hand X-ray from Saipan Health Center from May 27, 2005.
- F. Medical records from Medical Associates of the Pacific, Dr. Norma Ada, from September 12, 2005.



G. Receipts and Medical Certification, Dr Sakaru Suzu Osteopath Clinic, April 5 through March 2006.

H. Deposition of Toshihiro Takahashi Taken on April 12, 2006.

I. Pictures of Injury and location.

3. Complete statement of all opinions to be expressed:

- A. Injury to right shin, right shoulder, and right second finger were caused by the fall which occurred on or about March 17, 2005.
- B. Injury to the right shin is healed, with a permanent scar remaining.
- C. Injury to the right shoulder is healed, with no scar.
- D. Injury to the right second finger has persisted for over one year. It has remained swollen and the client continues to have pain and a shock sensation through the finger. He also has pain when flexing the finger at the MCP joint and is unable to fully flex the finger. The client has been receiving treatment from Japan but this has not cured the injury. This treatment from the client's description is an "electromagnetic" treatment. There is a Certification from Dr. Suzu Taketoshi which recommends continued treatment.

I have seen the X-ray of the right second finger from May 27, 2005 which is negative for fractured bones.

On examining the patient and taking his history, my diagnosis is that this is an injury to the nerve in the client's finger and it is most likely permanent. As a general practitioner, I would defer this conclusion to a neurologist to determine the extent of the nerve injury and would recommend the patient visit a neurologist.

I am not aware of any neurologist here in the Commonwealth. The closest one is in Guam. Treatment on Guam would require more financial resources and expenses than if the treatment were here in the Commonwealth.

4. The basis and reasons for the Opinions.

- A. Injury to the right shin: Interview of the witness, visible inspection of the scar, and pictures taken shortly after the injury.

B. Injury to the right shoulder: Interview and examination of the witness, examination of the shoulder which shows no residual injury, and pictures taken shortly after the injury.

C. Injury to the right second finger: Interview and examination of the witness. The client continues to complain of nerve shock in the finger and tenderness and swelling at the base of the finger. Although the client has received treatment in Japan, it has not been cured. Records from Japan indicate that the patient needs continued treatment. My evaluation is that the client has a nerve injury to the right second finger which is most likely permanent.

Sincerely,



H. Christine Brown, MD  
Medical Director  
Island Medical Center

*Curriculum Vitae*  
*H. Christine Brown*

**Current Address**

PO Box 504669 CK  
 Saipan, MP 96950  
 Phone: (670) 235-8880  
 e-mail: hcbrown@yahoo.com

**Personal**

Birth Date: August 29, 1959  
 Birth Place: Saiki, Japan  
 Marital Status: Single

**Residency**

University of Cincinnati	1992 - 1995
Family Medicine Residency Training Program	
International Health Track	
Cincinnati, Ohio	

**Medical Education**

University of South Florida	1988 - 1992
College of Medicine	
Tampa, Florida	
M.D., May 1992	

**Undergraduate Education**

University of Central Florida	1986 - 1988
Orlando, Florida	
B.S. in Biology, May 1998	

University of Central Florida	1979 - 1982
Orlando, Florida	
B. S. in Respiratory Therapy, July 1982	

Stetson University	1978 - 1979
DeLand, Florida	

Oral Roberts University	1977 - 1978
Tulsa, Oklahoma	

**Professional Experience**

Hendry Family Care Center 500 West Sagamore Avenue Clewiston, Florida 33440	August 1995 to December 1999
Locum Tenens in Queensland, Australia Global Medical Staffing Salt Lake City, Utah	January 2000 to September 2000
Elder Health of Volusia 1555 Saxon Blvd., Suite 501 Deltona, Florida	November 2000 to July 2001
Island Medical Center PO Box 504669 CK Saipan, MP 96950	April 2002 to Present

**Certification**

NBME Part I: June 1990  
NBME Part II: September 1991  
NBME Part III: May 1993  
Board Certified Family Practice 1995

# **TORRES BROTHERS, LLC.**

ATTORNEYS AT LAW

BANK OF GUAM BUILDING, THIRD FLOOR  
P.O. Box 501856  
SAIPAN, MP 96950  
TEL.: (670) 233-5504/6 FAX: (670) 233-5510

Victorino DLG. Torres, Esq.  
Joaquin DLG. Torres, Esq.  
Vincent DLG. Torres, Esq.

April 4, 2006

John D. Osborne  
CarlSmith Ball LLP  
P. O. Box 5241  
Saipan, MP 96590  
Tel: (67) 322-3455

Re: *Takahashi v. Maeda*: Civil Action No. CV 05-0026

Dear John:

The name of the Doctor that will be testifying at our expert witness is:

H. Christine Brown, MD  
P. O. Box 504669  
Saipan, MP 96950

Dr. Brown works at Island Medical Center. As I informed you over the phone, I cannot comply with Rule 26 (b) (4) (A) (i) at this point because Dr. Brown has not been able to meet with the plaintiff. The plaintiff is expected on the 10<sup>th</sup> of April, 2006 and Dr. Brown will meet with him immediately thereafter. My office will provide you a copy of her report as soon as we get it from Dr. Brown.

Thank you for your time and cooperation in this matter. Please advise if there is anything else that you want or need.

*Si Yu'us Ma'ase,*  
Joaquin DLG. Torres  
Attorney for T. Takahashi



RECEIVED  
CARLSMITH BALL LLP  
ATTORNEYS AT LAW  
DATE: 4/04/06 TIME: 3:46 PM  
BY: \_\_\_\_\_



**MICRONESIAN HEALTH CORPORATION  
Island Medical Center**

Your **NEW** Family Care Center

PO Box 504669 CK, Saipan, MP, 96950 • Phone: 670-235-8880 • Fax: 670-235-8370 • email: imc@pticom.com

April 21, 2006

**Re: Toshihiro Takahashi      DOB: July 8, 1946**

### 1. Name and Qualifications of Expert Witness

H. Christine Brown, M.D.

### Medical Training:

## **Residency: University of Cincinnati Family Practice Residency Training Program, 1992-1995.**

Medical School: University of South Florida, College of Medicine, 1992.

## Medical Experience

Medical Director Island Medical Center, Saipan, MP, 2002 to present.

Physician, Elder Health of Volusia, 2001.

## Locum Tenens Physician, Queensland, Australia, 2000.

**Physician, Hendry Regional Medical Center, Clewiston, Florida 1995-1999.**

## 2. Data or other Information Considered by Expert in Forming Opinion.

- A. Interview and examination of Mr. Toshihiro Takahashi on April 19, 2006.
- B. Medical records from Pacific Medical Center from March 18, 2005.
- C. Records of treatment at Murao Clinic March 22, 2005 to April 1, 2006.
- D. Medical records from Saipan Health Center, Mr. John Pangelinan from March 18, 2005.
- E. Evaluation of right hand X-ray from Saipan Health Center from May 27, 2005.
- F. Medical records from Medical Associates of the Pacific, Dr. Norma Ada, from September 12, 2005.



G. Receipts and Medical Certification, Dr Sakaru Suzu Osteopath Clinic, April 5 through March 2006.

H. Deposition of Toshihiro Takahashi Taken on April 12, 2006.

I. Pictures of Injury and location.

3. Complete statement of all opinions to be expressed:

- A. Injury to right shin, right shoulder, and right second finger were caused by the fall which occurred on or about March 17, 2005.
- B. Injury to the right shin is healed, with a permanent scar remaining.
- C. Injury to the right shoulder is healed, with no scar.
- D. Injury to the right second finger has persisted for over one year. It has remained swollen and the client continues to have pain and a shock sensation through the finger. He also has pain when flexing the finger at the MCP joint and is unable to fully flex the finger. The client has been receiving treatment from Japan but this has not cured the injury. This treatment from the client's description is an "electromagnetic" treatment. There is a Certification from Dr. Suzu Taketoshi which recommends continued treatment.

I have seen the X-ray of the right second finger from May 27, 2005 which is negative for fractured bones.

On examining the patient and taking his history, my diagnosis is that this is an injury to the nerve in the client's finger and it is most likely permanent. As a general practitioner, I would defer this conclusion to a neurologist to determine the extent of the nerve injury and would recommend the patient visit a neurologist.

I am not aware of any neurologist here in the Commonwealth. The closest one is in Guam. Treatment on Guam would require more financial resources and expenses than if the treatment were here in the Commonwealth.

4. The basis and reasons for the Opinions.

- A. Injury to the right shin: Interview of the witness, visible inspection of the scar, and pictures taken shortly after the injury.

B. Injury to the right shoulder: Interview and examination of the witness, examination of the shoulder which shows no residual injury, and pictures taken shortly after the injury.

C. Injury to the right second finger: Interview and examination of the witness. The client continues to complain of nerve shock in the finger and tenderness and swelling at the base of the finger. Although the client has received treatment in Japan, it has not been cured. Records from Japan indicate that the patient needs continued treatment. My evaluation is that the client has a nerve injury to the right second finger which is most likely permanent.

Sincerely,



H. Christine Brown, MD  
Medical Director  
Island Medical Center

*Curriculum Vitae*  
*H. Christine Brown*

**Current Address**

PO Box 504669 CK  
Saipan, MP 96950  
Phone: (670) 235-8880  
e-mail: hcbrown@yahoo.com

**Personal**

Birth Date: August 29, 1959  
Birth Place: Saiki, Japan  
Marital Status: Single

**Residency**

University of Cincinnati Family Medicine Residency Training Program International Health Track Cincinnati, Ohio	1992 - 1995
--	-------------

**Medical Education**

University of South Florida College of Medicine Tampa, Florida M.D., May 1992	1988 - 1992
--	-------------

**Undergraduate Education**

University of Central Florida Orlando, Florida B.S. in Biology, May 1998	1986 - 1988
--	-------------

University of Central Florida Orlando, Florida B. S. in Respiratory Therapy, July 1982	1979 - 1982
--	-------------

Stetson University DeLand, Florida	1978 - 1979
---------------------------------------	-------------

Oral Roberts University Tulsa, Oklahoma	1977 - 1978
--	-------------

**Professional Experience**

Hendry Family Care Center 500 West Sagamore Avenue Clewiston, Florida 33440	August 1995 to December 1999
Locum Tenens in Queensland, Australia Global Medical Staffing Salt Lake City, Utah	January 2000 to September 2000
Elder Health of Volusia 1555 Saxon Blvd., Suite 501 Deltona, Florida	November 2000 to July 2001
Island Medical Center PO Box 504669 CK Saipan, MP 96950	April 2002 to Present

**Certification**

NBME Part I: June 1990  
NBME Part II: September 1991  
NBME Part III: May 1993  
Board Certified Family Practice 1995

1 CARLSMITH BALL LLP  
2 Carlsmith Building, Capitol Hill  
3 P.O. Box 5241  
4 Saipan, MP 96950-5241  
5 Tel No. 670.322.3455

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Attorneys for Defendant  
Maeda Pacific Corporation

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN MARIANA ISLANDS

TOSHIHIRO TAKAHASHI,

CIVIL ACTION NO. CV 05-0026

Plaintiff,

vs.

DECLARATION OF JOHN D. OSBORN

MAEDA PACIFIC CORPORATION,

Defendant.

I, John D. Osborn, declare:

1. I am a partner in the Saipan office of Carlsmith Ball LLP, attorneys for Defendant Maeda Pacific Corporation. I have personal knowledge of the matters stated herein and would be competent to testify to same if called upon to do so.

2. Attached hereto marked as Exhibits A-B respectively are true and correct copies of the following documents:

Exhibit A: Letter dated April 4, 2006 from counsel for Plaintiff

Exhibit B: Report and Curriculum Vitae of Dr. H. Christine Brown

1        This declaration is made under penalty of perjury of the laws of the United States on  
2        Saipan, Commonwealth of the Northern Mariana Islands this 16th day of May, 2006.

3        DATED: Saipan, MP, May 16, 2006.

  
JOHN D. OSBORN

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28